

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2049 OF 2007

Dayashankar Bhageluram Saroj ..Applicant

Vs.

The State of Maharashtra and ors. ..Respondents

Mr. A.K. Singh & V.K. Singh for applicant.

Mr. Y.M. Nakhawa, APP for State.

**CORAM: B.H. MARLAPALLE, J.**

**Date : July 24, 2007.**

**P.C.:**

1. This is an application invoking inherent powers of this court under Section 482 of Cr.P.C. From C.R. No. 282 of 2006, Sessions Case No. 944 of 2006 has been registered and in the same charge-sheet came to be filed against both the accused and the present applicant is accused no.2. The accused no.2 thereafter made an application for being discharged on the ground that even if the charge-sheet is read as it is, there could be no case triable against him for the offences punishable under Sections 366 and 372 read with Section 34 of IPC and Sections 3,4,5 and 7(1)(b)

of the Immoral Traffic (Prevention) Act, 1956 (for short the said Act). The said application was partly allowed by the 3rd Ad-hoc Assistant Sessions Judge, Gr. Bombay vide his order dated 14/5/2007. The applicant came to be discharged from the offences punishable under Sections 366 and 372 read with Section 34 of IPC. However, his prayer to discharge from all the offences has been turned down by the impugned order.

2. The learned Ad-hoc Assistant Sessions Judge considered the scheme of Sections 3, 4, 5 and 7(1) (b) of the said Act and noted that a person is guilty if he allows any other person to use his premises for the purpose of running a brothel. In addition, the provisions of Section 3(b) of the said Act further states that if a person being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof is intended to be used as a brothel, or is willfully a party to the use of such premises or any part thereof as a brothel, he is liable for the punishment. It is, therefore, clear that prima facie case has been made

for the trial of the accused under the provisions of Sections 3, 4, 5 and 7 of the said Act. The learned Ad-hoc Assistant Sessions Judge was right in his conclusions to refuse the prayer of the applicant for his discharge from the second part of the Sessions Case i.e. the offences punishable under Sections 3, 4, 5 and 7 of the said Act.

3. Hence, there is no case made out to invoke the inherent powers of this court under Section 482 of Cr.P.C. at this stage and, therefore, the application is rejected.

**(B.H. Marlapalle, J.)**